

ESTTA Tracking number: **ESTTA601364**

Filing date: **04/30/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92055094
Party	Plaintiff Swig, Inc.
Correspondence Address	JEFFREY A TINKER WINSTEAD PC 2728 N HARWOOD ST, 500 WINSTEAD BLDG DALLAS, TX 75201 UNITED STATES jtinker@winstead.com
Submission	Request to Withdraw as Attorney
Filer's Name	Janie Muennink
Filer's e-mail	jmuennink@winstead.com, cberryman@winstead.com, jtinker@winstead.com
Signature	/Janie Muennink/
Date	04/30/2014
Attachments	Swig Withdrawal of Counsel.pdf(20681 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Reg.	§	
No. 3,885,993.	§	
For the mark SWIG.	§	
Registered December 7, 2010.	§	
	§	
SWIG, INC.	§	
	§	
Petitioner,	§	
	§	
v.	§	Cancellation No. 92055094
	§	
TEMPERANCE DISTILLING	§	
COMPANY, INC.	§	
	§	
Respondent.	§	

REQUEST TO WITHDRAW AS ATTORNEYS OF RECORD

The undersigned, on behalf of Winstead, P.C., files this Request to Withdraw as Attorneys of Record for Petitioner Swig, Inc. (“Petitioner”), and respectfully would show the Board, as follows:

1. The Board has requested a status update on the Northern District of Ohio court’s ruling on Respondent Temperance Distilling Company, Inc.’s motion to quash on or before May 6, 2014. Contemporaneously with the filing of this request, the undersigned, on behalf of Petitioner, have timely filed a notice of status in satisfaction of the Board’s request.

2. This proceeding has been (and remains) suspended by the Board as of the date of the filing of this request.

3. Irreconcilable differences have arisen between Petitioner and the law firm of Winstead, P.C. and its individual attorneys of record in this proceeding.

4. Winstead, P.C. has notified Petitioner of its desire to withdraw and has allowed Petitioner ample time to employ another practitioner. It further has arranged for all the papers relating to the proceeding to be delivered to Petitioner.

5. The applicable rules allow withdrawal when a client “[has] failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.” 37 C.F.R. Section 1040(c)(1)(vi). Such has occurred in the present case.

6. Upon information and belief, Petitioner has not yet retained other counsel to represent it in the above-referenced case. Therefore, please address all future correspondence to:

Mr. Chris Erck
Swig, Inc.
816 Camaron, Suite 100
San Antonio, Texas 78212

7. On November 14, 2013, the Board suspended the proceedings pending disposition of the motion to extend Petitioner’s testimony period. In its suspension notice, the trial dates were not reset from the previous schedule set on June 17, 2013. Prior to the Board’s suspension, the following deadlines applied in this case:

Time to Answer :	CLOSED
Deadline for Discovery Conference :	CLOSED
Discovery Opens :	CLOSED
Initial Disclosures Due :	CLOSED
Expert Disclosure Due :	06/23/2013
Discovery Closes :	07/23/2013
Plaintiff’s Pretrial Disclosures :	09/06/2013
Plaintiff’s 30-day Trial Period Ends :	10/21/2013
Defendant/Counterclaim Plaintiff’s Pretrial Disclosures :	11/05/2013
30-day Trial Period for Defendant and Plaintiff in the Counterclaim :	12/20/2013
Counterclaim Defendant’s and Plaintiff Rebuttal Disclosures Due :	01/04/2014
30-day Trial Period for Counterclaim Defendant and Rebuttal Testimony as Plaintiff ends :	02/18/2014
Counterclaim Plaintiff’s Rebuttal Disclosures Due :	03/05/2014
15-day Rebuttal Period for Counterclaim Plaintiff Ends :	04/04/2014
Plaintiff’s Trial Brief Due :	06/03/2014
Defendant’s Trial Brief and Plaintiff in the Counterclaim Due :	07/03/2014
Brief for Defendant in the Counterclaim and Reply Brief, if any, for Plaintiff Due :	08/02/2014

Reply Brief, if any, for Plaintiff in the Counterclaim 08/17/2014
Due :

Petitioner has been provided with the above-referenced deadlines by email and again by letter via overnight courier on the date set forth below. Petitioner further has been advised by the undersigned as to future actions due in prosecuting this cancellation (including potential new deadline dates if the Board resets the trial date as of May 6, 2014, based on the prior schedule timeline).

For the foregoing reasons, the undersigned, on behalf of Winstead, P.C. and its individual attorneys of record in this proceeding, hereby requests leave to withdraw as attorneys of record in the above-referenced proceeding.

Respectfully submitted,

Date: April 30, 2014

WINSTEAD PC

/s/ Jeffrey A. Tinker

Jeffrey A. Tinker
500 Winstead Building
2728 N. Harwood Street
Dallas, Texas 75201
Telephone: (214) 745-5400

Attorneys For Petitioner, Swig, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the above Request to Withdraw has been served on the following counsel of record on April 30, 2014 via Electronic Mail as follows:

Gregg W. Emch
emch@mstfirm.com
Joseph W. Tucker
tucker@mstfirm.com
MacMillan, Sobanski & Todd, LLC
One Maritime Plaza, Fifth Floor
720 Water Street
Toledo, Ohio 43604

/s/ Jeffrey A. Tinker

Jeffrey A. Tinker